

A bill for an act

relating to education; permitting school districts to determine whether to offer alternative educational services for students subject to dismissal; amending Minnesota Statutes 2008, sections 121A.41, subdivision 10; 121A.46, subdivision 4; 121A.47, subdivisions 2, 14; 121A.53, subdivision 1; 121A.55; repealing Minnesota Statutes 2008, section 121A.45, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 121A.41, subdivision 10, is amended to read:

Subd. 10. **Suspension.** "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan ~~shall~~ may include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. Consistent with section 125A.091, subdivision 5, the readmission plan must not obligate a parent to provide a sympathomimetic medication for the parent's child as a condition of readmission. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a student

with a disability, the student's individual education plan team must meet immediately but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team and other qualified personnel shall at that meeting: conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

(1) the parent requests a meeting;

(2) the student is removed from the student's current placement for five or more consecutive days; or

(3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration ~~shall~~ may implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

Sec. 2. Minnesota Statutes 2008, section 121A.46, subdivision 4, is amended to read:

Subd. 4. **Suspension pending expulsion or exclusion hearing.** Notwithstanding the provisions of subdivisions 1 and 3, the pupil may be suspended pending the school board's decision in the expulsion or exclusion hearing; ~~provided that alternative educational services are implemented to the extent that suspension exceeds five days.~~

Sec. 3. Minnesota Statutes 2008, section 121A.47, subdivision 2, is amended to read:

Subd. 2. **Written notice.** Written notice of intent to take action shall:

(a) be served upon the pupil and the pupil's parent or guardian personally or by mail;

(b) contain a complete statement of the facts, a list of the witnesses and a description of their testimony;

(c) state the date, time, and place of the hearing;

(d) be accompanied by a copy of sections 121A.40 to 121A.56; and

~~(e) describe alternative educational services accorded the pupil in an attempt to avoid the expulsion proceedings; and~~

~~(f)~~ inform the pupil and parent or guardian of the right to:

(1) have a representative of the pupil's own choosing, including legal counsel, at the hearing. The district shall advise the pupil's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Department of Education;

(2) examine the pupil's records before the hearing;

- 3.1 (3) present evidence; and
3.2 (4) confront and cross-examine witnesses.

3.3 Sec. 4. Minnesota Statutes 2008, section 121A.47, subdivision 14, is amended to read:

3.4 Subd. 14. **Admission or readmission plan.** (a) A school administrator shall prepare
3.5 and enforce an admission or readmission plan for any pupil who is excluded or expelled
3.6 from school. The plan may include measures to improve the pupil's behavior, including
3.7 completing a character education program, consistent with section 120B.232, subdivision
3.8 1, and require parental involvement in the admission or readmission process, and may
3.9 indicate the consequences to the pupil of not improving the pupil's behavior.

3.10 (b) The definition of suspension under section 121A.41, subdivision 10, does not
3.11 apply to a student's dismissal from school for one school day or less, except as provided
3.12 under federal law for a student with a disability. Each suspension action may include a
3.13 readmission plan. A readmission plan ~~must~~ may provide, where appropriate, alternative
3.14 education services, which must not be used to extend the student's current suspension
3.15 period. Consistent with section 125A.091, subdivision 5, a readmission plan must not
3.16 obligate a parent or guardian to provide psychotropic drugs to their student as a condition
3.17 of readmission. School officials must not use the refusal of a parent or guardian to consent
3.18 to the administration of psychotropic drugs to their student or to consent to a psychiatric
3.19 evaluation, screening or examination of the student as a ground, by itself, to prohibit the
3.20 student from attending class or participating in a school-related activity, or as a basis of a
3.21 charge of child abuse, child neglect or medical or educational neglect.

3.22 Sec. 5. Minnesota Statutes 2008, section 121A.53, subdivision 1, is amended to read:

3.23 Subdivision 1. **Exclusions and expulsions.** The school board must report through
3.24 the department electronic reporting system each exclusion or expulsion within 30 days of
3.25 the effective date of the action to the commissioner of education. This report must include
3.26 a statement of alternative educational services, if any, given the pupil and the reason for,
3.27 the effective date, and the duration of the exclusion or expulsion. The report must also
3.28 include the student's age, grade, gender, race, and special education status.

3.29 Sec. 6. Minnesota Statutes 2008, section 121A.55, is amended to read:

3.30 **121A.55 POLICIES TO BE ESTABLISHED.**

3.31 (a) The commissioner of education shall promulgate guidelines to assist each school
3.32 board. Each school board shall establish uniform criteria for dismissal and adopt written
3.33 policies and rules to effectuate the purposes of sections 121A.40 to 121A.56. The policies

shall emphasize preventing dismissals through early detection of problems and shall be designed to address students' inappropriate behavior from recurring. ~~The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period. The Alternative educational services, may be provided if the pupil wishes to take advantage of them, must be adequate to allow the pupil to make progress towards meeting the graduation standards adopted under section 120B.02 and help prepare the pupil for readmission.~~

(b) An area learning center under section 123A.05 may not prohibit an expelled or excluded pupil from enrolling solely because a district expelled or excluded the pupil. The board of the area learning center may use the provisions of the Pupil Fair Dismissal Act to exclude a pupil or to require an admission plan.

(c) Each school district shall develop a policy and report it to the commissioner on the appropriate use of peace officers and crisis teams to remove students who have an individualized education plan from school grounds.

Sec. 7. **REPEALER.**

Minnesota Statutes 2008, section 121A.45, subdivision 1, is repealed.

APPENDIX
Repealed Minnesota Statutes: 09-2058

121A.45 GROUNDS FOR DISMISSAL.

Subdivision 1. **Provision of alternative programs.** No school shall dismiss any pupil without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the pupil will create an immediate and substantial danger to self or to surrounding persons or property.